

REMARKS/ARGUMENTS

The Examiner, in her communication dated March 28, 2005 required the election of a single disclosed species. Accordingly, Applicants elect the species of Example 1. All of the claims essentially read on the elected species, since the reactive sites are essentially the same.

Applicants request that should the elected species is found allowable, the Examiner expand her search to include non-elected species.

Divisional applications filed thereafter claiming the non-elected species should not be subject to a double patenting ground of rejection. 35 U.S.C. §121, In re Joyce, (Commr. Pat. 1957) 115 USPQ 412.

The Examiner alleges that the species recited in the specification are patentably distinct. However, the burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinction. M.P.E.P. §803.

The Examiner has not given adequate reasons and/or examples to support patentable distinctness. Rather, the Office merely states conclusions.

Accordingly, the Office has failed to meet the burden necessary to sustain the election requirement, and the Office has not shown that a burden exists in searching all of the species.

Further, M.P.E.P. §803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits even though it includes claims to distinct and independent invention.

Applicants submit that a search of the entire application would not constitute a serious burden on the Office.

In chemical cases a specified group of materials which do not necessarily belong to an otherwise class can be claimed together. Separate substances, which could not be defined by generic language but which nevertheless have a community of chemical or physical characteristics should be examined together if they have at least one property in common

which is mainly responsible for the claimed relationship. The same utility in a generic sense suffices.

Applicants make no statement regarding the patentable distinctness of the species, but with that for the restriction/election to be proper there must be patentable differences between the species as claimed. M.P.E.P. §808.01(a).

Applicants' election is for examination only.

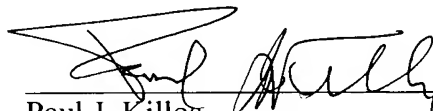
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)


Paul J. Killos
Registration No. 58,014